

15 CV . 0886

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Younes Kabbaj,  
Plaintiff

v.

Mark S. Simpson, Brian K. Albro, John Does 1-9,  
Defendants

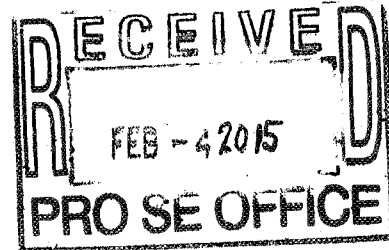
CIVIL ACTION No.

**COMPLAINT AND JURY DEMAND**

1. Plaintiff seeks declaratory and injunctive relief, and money damages for defamation, tortious interference with contract, negligent and intentional infliction of emotional distress, premised upon diversity of citizenship.

**The Parties**

2. Younes Kabbaj is a citizen of Florida.
5. Mark Simpson is a citizen of New York.
6. Brian Albro is a citizen of New York.
7. John Does 1-9 are unidentified citizens of New York.



**Jurisdiction and Venue**

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1332 because the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, and there is diversity of citizenship between Plaintiff and the Defendants. This Court also has supplemental jurisdiction over the claim for relief that arises under State law pursuant to 28 U.S.C. 1367(a) because it forms part of the same controversy and derives from a common nucleus of operative facts. Venue is proper in this District pursuant to 28 U.S.C. 1391(b)(3) because the Defendants are subject to personal jurisdiction in the District.

### **The Facts**

9. Starting approximately February of 2009, Plaintiff and his family have been subjected to a prolonged campaign of defamation; stalking and death threats after Plaintiff accepted a job as the Head of Technology for the American School of Tangier and Marrakesh ("AST"). The details of the conflict is covered in previous civil/criminal litigation in Morocco and America, including Case no. 10-431-RGA, Case no. 12-1322-RGA, Case no 13-1522-RGA (Delaware District Court), and Case no. 11-23492-MGC (Southern District of Florida).

10. The criminal activity engaged against Plaintiff by the Defendants is substantial and prolonged, much of it already documented in the 10-431-RGA, 12-1322-RGA and 13-1522-RGA case. This activity includes the repeated filing of false criminal complaints against Plaintiff, voluminous defamatory statements appearing on the web and in books being sold on Amazon, email threats sent directly to Plaintiff by Defendants, physical stalking of Plaintiff and his family by the Defendants including vandalizing his property, and incitement against Plaintiff by spreading false allegations accuse him of supporting of terrorism, and provocations against Plaintiff's family in Morocco resulting in false incarceration of his family members in Morocco. There are also direct statements by the Defendants admitting that they are targeting Plaintiff specifically because of his religion.

11. The websites and communications being published on the internet, all purported to be authored and published by a previous Defendant from the 12-1322-RGA case, a person named Mark Simpson. Upon filing of the 12-1322 case against Mark Simpson, subsequent communications and publications being made to the internet started claiming that the communications which Plaintiff submitted to the Court in the 12-1322 case were forgeries, and

that Mark Simpson never made them because unidentified third parties had illegally intruded into his internet accounts, or 'hacked' them, to make the postings. At the same time that these allegations of hacking were being made on the internet, Mark Simpson's attorney responded to the 12-1322 case and never attempted to claim that the submissions made by Plaintiff were 'forgeries.' Instead he responded to the 12-1322 complaint by attempting to dismiss the case solely on jurisdictional grounds. This strategy was deliberate because Mark Simpson's attorney already knew that Mark Simpson was not making the postings, but that his family/friends were doing it to confound Plaintiff from being able to restrain them via litigation.

12. Mark Simpson also never denied making the postings submitted by Plaintiff in the 12-1322 case because he knew that if he officially informed the Court that he denied being the author of the publications, this would immediately allow Plaintiff to engage discovery with the ISPs directly so as to identify the actual authors of the publications in order to file suit against them. In light of this obvious attempt to use an illegal strategy to defeat Plaintiff's lawsuit, Plaintiff subsequently filed a motion to amend the 12-1322 case to add John Does in order to signify that he intended to sue the actual authors of the Defamation, and Plaintiff subsequently served subpoenas on Google/Amazon to obtain the technical data which would identify the actual authors. The Delaware Court rejected Plaintiff's Motion to add John Does citing a procedural defect, and Plaintiff resubmitted it yet the Court denied the Motion without explanation. The Court also quashed Plaintiff's subpoenas and banned Plaintiff from serving any further subpoenas to identify the actual authors of the communications. Plaintiff appealed these decisions to the 3<sup>rd</sup> Circuit, but they never addressed them and affirmed the final dismissal of the case without ever once addressing these specific facts.

13. As a result of these decisions, Plaintiff was thereby forced to file an additional case in Delaware against the John Does and the ISPs as Case no 13-1522-RGA to continue to try and restrain this activity. Since Plaintiff could never confirm that these communications were being made by anyone other than the ISPs due to Mark Simpson's refusal to admit he made them, and due to the Court's dismissal of the claims without allowing Plaintiff to serve subpoenas to attempt to identify the authors in the event that the publications were not made by the ISPs directly, the Plaintiff interpreted the Court's decisions to infer that the appropriate method by which to pursue a defamation case is to first sue the ISPs directly to obtain the evidence confirming that third parties are making the publications, before the ISP's can then decide if they wish to invoke immunity against suit by providing the evidence identifying the third parties. Nothing precludes suit against the ISPs because they are the only admitted source of the publications thus far.

14. Before filing of the instant case, Plaintiff also served additional subpoenas upon the ISPs to attempt to identify the actual authors of these communications in an effort to establish whether the communications were made by a third party. As a result of at least one subpoena to Verizon attempting to identify the author of defamatory communications sent directly to AST (which was purported to have been authored by Mark Simpson), Plaintiff was subsequently able to finally determine that the actual identity of that communication is a person named Brian Albro, who is purported to be Mark Simpson's boyfriend/husband. The communication, subpoena and response from Verizon is file in case no 13-1522-RGA (District of Delaware), Document 75.

15. At some point while the 12-1322 case was proceeding in Delaware, Mark Simpson, Brian Albro and other unidentified individuals named as John Does in this Complaint, thereby conspired to also manufacture a false arrest of the Plaintiff in an effort to prevail against him in this litigation. Approximately April of 2013, Simpson/Albro discovered where Plaintiff's mother lived and worked in Florida, and thereby used this information to threaten Plaintiff and his mother. After discovering that Plaintiff's mother had just recently obtained a job at a strip mall, Brian Albro thereby sent Plaintiff a death threat against his mother to Plaintiff's court-registered email address in an effort to force Plaintiff to abandon the litigation (case no 13-1522-RGA, District of Delaware, Document 95 - Exhibit 3). This threatening email was again falsely purporting to come from staff and students at AST, but Plaintiff suspected that the only persons who would send it were Simpson/Albro and their John Doe co-conspirators.

16. Upon receipt of this email, Plaintiff's mother resigned her job at the strip mall to avoid any disturbance at her job. After that event, Simpson/Albro obtained the assistance of unidentified John Doe co-conspirators in Florida who thereby placed tomato sauce on the roof of Plaintiff's mother's car in another veiled threat to infect Plaintiff's mother with HIV (case no 13-1522-RGA, District of Delaware, Document 95 - Exhibit 4). Subsequent to this activity, Plaintiff responded to Simpson/Albro directly in order to deter their continued harassment and threats of Plaintiff's family. Simpson/Albro thereby used Plaintiff's response to file a false complaint against him with the New York City Police Department alleging harassment, but they did not inform the police about their previous stalking, threatening and harassment of Plaintiff which occurred unabated for years since 2009 and all they way up to just days before Plaintiff responded to them directly. After being contacted by a Detective in the NYPD (Detective Egan)

who was investigating Simpson/Albro's claims, Plaintiff informed Detective Egan that Simpson/Albro were the ones that were threatening Plaintiff to elicit his response. Detective Egan stated that if Plaintiff could provide him with evidence of threats being made by Simpson/Albro, that he would arrest them. Plaintiff thereby planned to meet with Detective Egan upon his next trip to New York, which would not occur until after the case in Delaware was dismissed.

17. Subsequent to the dismissal of the 12-1322 case, Plaintiff understood that the Delaware Court was not going to allow Plaintiff to restrain the persons stalking him, so he thereby took Detective Egan up on his offer to investigate the case, not knowing that Detective Egan was plotting a criminal action against Plaintiff to support Simpson/Albro and their political constituency. Plaintiff thereby travelled to New York to provide Simpson/Albro with evidence of the threats he was receiving to arrest the persons responsible, but Detective Egan ambushed Plaintiff with a false arrest, refusing to investigate the threats Plaintiff was receiving.

18. Plaintiff thereby started serving more subpoenas through the instant case in Delaware to attempt to trace the origin of the April death threats himself. After serving the new Delaware subpoenas, Plaintiff discovered that the individuals making these threats were using proxy companies to hide their identity. Despite the attempts to hide their identity, Plaintiff was still able to obtain confirmation that again, just like in the Verizon response, that the author of these death threats is an individual named Brian Albro (case no 13-1522-RGA, District of Delaware, Document 95- Exhibit 5).

19. Even despite the false arrest and ongoing malicious prosecution in New York, which is being illegally charged as a felony 'hate crime' due to a very political Manhattan DA office

that refuses to acknowledge the provocations by Simpson/Albro (which are themselves criminal offenses and admitted to be hate crimes against the Plaintiff because Simpson/Albro openly admit that they are stalking Plaintiff because of his religious beliefs), the defamation still has not stopped. Because the Plaintiff sued Google/Amazon/Yahoo for their previous defense of their conspiracy due to their refusal to provide information in their possession to identify the authors, this thereby caused Simpson/Albro and the John Does to move their operation to another ISP named Wordpress to host their blogs (while still maintaining their Yahoo email services), where the defamatory communications are still continuing till this day and will never stop, as is documented in case no 13-1522-RGA, District of Delaware, Document 90-2.

20. Despite submitting all these publications to the Court, and despite the fact that Simpson is forwarded the pleadings by his attorney and has had ample opportunity to dispute that he published them, Simpson/Albro refuse to make any such claim directly to this Court because they are fully aware they are authoring this material themselves, and that Simpson is likely authoring the material and forwarding it to Brian Albro (a New York attorney with a technology background) to perform the actual publication of the material using proxies to hide the trail of the communications, just as the technical evidence has now revealed. This procedure is clearly done in an effort to try and maintain Simpson's technical ability to later claim (should a discovery order be issued), that he never physically made the publications himself with the hopes that by the time he is forced to make these admissions under oath, the technical evidence confirming that Brian Albro and other John Doe co-conspirators is purged by the ISPs making it impossible for Plaintiff to dispute him by tracing the communications via subpoena to ISP.



21. This operation by Simpson/Albro and the John Does is sophisticated both in the use of advanced technical means such as using proxy companies with servers all across the world to hide the trail of the communications, and the political defenses they are attempting by injecting homosexuality as a 'defense' to the allegations, and the additional attempt to use a false criminal complaint in New York to further inundate Plaintiff with additional litigation to thwart him and essentially gain the ability to illegally punish him for having a religious beliefs that run contrary to his own.

22. Mark Simpson, Brian Albro and the John Does have breach the settlement contract with Plaintiff which specifically prohibited all releases, including Brian Albro who is defined as a family member of Mark Simpson and thus a release, from engaging defamation, and filing false criminal complaints against Plaintiff. AST and Mark Simpson were direct parties to the settlement agreement and were involved in the negotiations leading up to its being signed by Plaintiff, as admitted in the REPLY to Plaintiff's request for permission to file a lawsuit against AST in the related case (Case no 10-431-RGA, District of Delaware, Document 68). Mark Simpson is also a signatory to his own Contract with AST in 2009 prohibiting these activities against Plaintiff, which Plaintiff himself relied upon to sign his settlement agreement with AST.

### **AS AND FOR A FIRST CLAIM**

#### **Declaratory and Injunctive Relief**

23. Plaintiff is requesting that the Court declare the communications being made by the Defendants, are defamatory in that they falsely accusing Plaintiff of committing serious crimes.

24. Plaintiff is requesting an injunction against all Defendants from publishing any such defamatory communications about Plaintiff ever again.



**AS AND FOR A SECOND CLAIM**

**Breach of Contract**

25. Plaintiff is requesting that the Court declare that Mark Simpson, Brian Albro and the John Doe defendants have breached their Contract with Plaintiff in the 10-431-RGA case which was signed in 2012, a redacted copy of which has been provided to the Court in the 10-431-RGA Case as D.I. 69, Exhibit 1). A redacted version was filed due to the fact that the Contract is still confidential until the Plaintiff is allowed to revise it via the permission requested in the MOTION TO FILE LAWSUIT, case no 10-431-RGA, D.I. 65. Plaintiff is requesting damages for breach to be determined by jury.

**AS AND FOR A THIRD CLAIM**

**Tortious Interference with Contract**

26. Plaintiff is also requesting that the Court declare that all John Doe defendants who are not party to the 2012 contract, are also declared as engaging tortious interference with this contract by publishing the communications which are the subject of this complaint in an effort to force Plaintiff into breaching the contract. Plaintiff is requesting damages for this interference to be determined by a jury.

**AS AND FOR A FORTH CLAIM**

**Negligent and Intentional Infliction of Emotional Distress**

27. Plaintiff is also requesting that the Court declare that the Defendants are engaging negligent and intentional infliction of emotional distress against Plaintiff by publishing the communications which are the subject of this complaint. Plaintiff is requesting damages for this claim to be determined by a jury.

**AS AND FOR A FIFTH CLAIM**

**Damages for Libel per se**

28. Plaintiff is requesting this Court impose damages against Mark Simpson, Brian Albro and the John Does for publishing the defamation which is the subject of this complaint. Plaintiff is requesting damages for this claim to be determined by a jury.

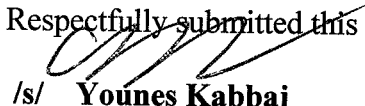
**PRAYER FOR RELIEF**

WHEREFORE Plaintiff respectfully demands this court enter judgment in its favor and against the Defendants as follows:

29. Awarding on the Second, Third, Fourth and Fifth claim for such compensatory and punitive damages in an amount to be determined by a jury.

30. Granting such other and further relief as the Court deems just and proper, including the costs of this action and investigative costs associated with gathering evidence in this case, and damages incurred as a result of the filing of the Criminal Case against Plaintiff in New York, and other costs associated with defending against the false criminal case in New York.

Respectfully submitted this 31<sup>st</sup> day of January, 2015

  
/s/ Younes Kabbaj  
Younes Kabbaj PRO SE  
1844 N Nob Hill Rd #222  
Plantation, FL 33322

**CERTIFICATE OF SERVICE**

Plaintiff has served this COMPLAINT AND JURY DEMAND upon counsel for the following defendants via email and ecf:

DEFENDANTS: Google Inc., Amazon Inc., Yahoo Inc.

Ian Robert Liston	A. Thompson Bayliss	Thomas P. Lane
IListon@wsgr.com	bayliss@abramsbayliss.com	tlane@winston.com

DEFENDANTS: Mark Simpson and Brian Albro

Marcos Daniel Jimenez	Marissa C. Krumm	Randolph Karl Herndon, Jr.
mjimenez@mwe.com	mkrumm@mwe.com	rhendon@mwe.com

DEFENDANTS (related litigation): American School of Tangier, Board of Directors, Edward Gabriel, Stephen Eastman

Larry R. Seegull	Charles Kresslein
Larry.seegull@jacksonlewis.com	Charles.Kresslein@jacksonlewis.com

Jennifer Gimler Brady	Michael B. Rush
jbrady@potteranderson.com	mrush@potteranderson.com

Respectfully submitted on January 31<sup>st</sup>, 2015

  
**/s/ Younes Kabbaj**

Younes Kabbaj PRO SE  
1844 N Nob Hill Rd #222  
Plantation, FL 33322  
(718)766-8128  
jonahkabbaj@gmail.com

# Exhibit 01

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

YOUNES KABBAJ,

Plaintiff,

v.

AMERICAN SCHOOL OF TANGIER,  
et al.,

Defendants.

Civil Action No.10-431-RGA

FILED  
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DISTRICT OF DELAWARE  
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**ORDER**

At Wilmington, this 5<sup>th</sup> day of **January, 2015**, consistent with the Memorandum issued this date,

IT IS HEREBY ORDERED AND ADJUDGED that:

1. Plaintiff's motions at D.I. 65, 66 and 71 are **DENIED**.
2. Plaintiff's motion to file complaint at D.I. 70, Ex. 1 is **DENIED** as to the American School of Tangier, and **GRANTED** as to Mark Simpson and Brian Albro, subject to the following:
  - (a). Authorization for filing the proposed complaint is limited to the proposed complaint as attached as exhibit 1 to D.I. 70, except as modified as ordered in paragraph 2 (b) below.
  - (b). Plaintiff shall remove all references in the caption and body of the

proposed complaint that suggest, state, assert, claim or refer to American School of Tangier or AST as a party or as a defendant, and shall delete paragraph 31. As to the remaining entities or persons identified as a defendant in either the caption or the body of the proposed complaint, he shall include those entities or persons he intends to be a party in the caption to clarify who is a defendant. Plaintiff shall identify the United States District Court in which the proposed complaint will be filed, and shall attached a copy of the Memorandum dated January 5, 2015 and this Order as Exhibit 1 and a copy of the proposed complaint as attached in D.I. 70 as Exhibit 2.

No other modifications, amendments, supplements or exhibits to the proposed complaint are authorized unless allowed or granted by a court.

3. Plaintiff shall not file the proposed complaint, included as modified as ordered in paragraph 2 (b) above, to institute an action against Mark Simpson and/or Brian Albro in this court and is directed to determine where personal jurisdiction and service of process over defendants may be effective.

4. Plaintiff shall file a certification in this matter confirming that he has abided by the provisions of this Order within ten (10) days after filing of the modified proposed complaint with a court. The certification shall advise in which court(s) the modified proposed complaint was filed. Plaintiff shall serve copies of his certification on counsel listed on the docket in this matter, specifically Jennifer Brady, Esq, Michael Rush, Esq., Charles Kresslein, Esq. and Larry Seegull, Esq., and the following additional counsel, Ian Liston, Esq., A. Thompson Bayliss, Esq. and David Finger, Esq.

5. The Clerk shall provide a copy of the Memorandum and this Order to Ian Liston, Esq., A. Thompson Bayliss, Esq. and David Finger, Esq.

6. Copies of the Memorandum and this Order were mailed to Younes Kabbaj on January 5, 2015.

/s/ Mary Pat Thyng  
CHIEF, UNITED STATES MAGISTRATE JUDGE



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

YOUNES KABBAJ,

Plaintiff,

v.

AMERICAN SCHOOL OF TANGIER,  
et al.,

Defendants.

Civil Action No.10-431-RGA

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DISTRICT OF DELAWARE  
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**MEMORANDUM**

This memorandum addresses the various requests and motions filed by Younes Kabbaj ("Kabbaj").<sup>1</sup>

**I. BACKGROUND<sup>2</sup>**

Kabbaj, a former employee of the American School of Tangier ("AST"), filed numerous lawsuits alleging employment discrimination, violations of a state whistleblowers' protection act, negligence, intentional infliction of emotional distress, intentional interference with a contractual relationship, abuse of process, conversion, breach of contract, tortious interference, and defamation.<sup>3</sup>

In his first action, C. A. No. 10-431-RGA, the parties entered into a confidential settlement agreement, followed by a joint motion to dismiss with prejudice and consent

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<sup>1</sup> D.I. 65, 66, 70 and 71.

<sup>2</sup> For a more detailed factual and procedural background, see *Kabbaj v. Simpson*, C.A. No. 12-1322-RGA/MPT, 2013 WL 2456108 (D. Del. June 6, 2013).

<sup>3</sup> See C. A. Nos. 10-431-RGA, 12-1322-RGA-MPT, 13-1522-RGA, 14-780-RGA, 14-982-RGA, 14-1001-RGA.

order, granted by the court on April 24, 2012.<sup>4</sup> These matters were heard by me after the parties consented to my jurisdiction for all matters related to settlement and to rule on the joint motion to dismiss with prejudice and consent order.<sup>5</sup> (*Id.* at D.I. 53). The dismissal order provided that the court would retain jurisdiction of the matter following dismissal for the purpose of enforcing the parties' written settlement agreement and to resolve disputes regarding that settlement agreement. The dismissal order further restrained and prohibited Kabbaj from having any contact with numerous persons and entities (reference as the "Releasees") involved in C. A. No. 10-431-RGA.<sup>6</sup> Finally, the dismissal order provided that, unless prior written permission is obtained from this court, defendants may not bring a civil action against Kabbaj, and he may not institute a civil action against any of the releasees of the settlement agreement with respect to any matter not released by the parties' settlement agreement, including but not limited to, any claim that any party breached this agreement.<sup>7</sup>

On October 18, 2012, Kabbaj filed a motion for leave to file a lawsuit against a releasee, Mark S. Simpson ("Simpson"). The motion was filed under the present civil action number. As evidenced from the contents of the motion and the exhibits attached, the motion was a request to file another action, which appeared related to this matter, but was limited to only one of the defendants originally sued.

According to the exhibits attached to the motion, Kabbaj attempted to initially file

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<sup>4</sup> D.I. 54.

<sup>5</sup> C.A. No. 10-431-RGA, D.I. 53.

<sup>6</sup> *Id.*

<sup>7</sup> The numerous releasees are identified in paragraph 11 of the Confidential Settlement Agreement.

his proposed action for alleged unlawful and defamatory conduct and tortuous interference with a contract against Simpson in the Southern District of New York. In accordance with the Order of The Honorable Loretta A. Preska, dated October 12, 2012, the matter known as *Kabbaj v. Simpson*, C.A. No. 12-7397 (LAP) was transferred to the District of Delaware and assigned a separate civil action number in this court of 12-1322-RGA. In her Order, Judge Preska relied upon the April 24, 2012 order of this court, enjoining Kabbaj from instituting any action against any releasee absent prior permission from this court. Thereafter, Kabbaj initiated other actions, as noted herein, against Simpson, AST (a releasee), Brian Albro ("Albro", a possible releasee), Yahoo, Inc., Amazon, Inc., Google, Inc., various unidentified "John Does" and others.

## **II. DISCUSSION/ANALYSIS**

### **A. Request to Engage in Mediation and/or File Lawsuit**

On January 2, 2014, Kabbaj filed a request for this court to modify certain terms of the settlement agreement of March 12, 2012 and consent order issued April 24, 2012 in this matter to allow him to sue AST and Simpson and "be released from the majority of the provisions of the AST settlement agreement in order to be able to pursue Mark Simpson for Breach of Contract" in a jurisdiction where personal jurisdiction exists.<sup>8</sup> Absent the mention of mediation in the caption, no other reference to mediation is contained in the request. No proposed complaint was attached to the request for the

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<sup>8</sup> D.I. 65. Despite the caption to this motion, Kabbaj is asking this court to circumvent only certain of the AST settlement provisions purportedly to allow him to "resolve any issues concerning Simpson's breach of contract." D.I. 65 at ¶ 7.

court to review to determine the adequacy of the pleading and proposed action. When Kabbaj filed his previous motion in this matter for permission to sue Simpson for alleged violations of the settlement agreement,<sup>9</sup> a proposed complaint was attached as an exhibit on which Kabbaj relied.<sup>10</sup> Based on certain representations and his proposed complaint, his motion for leave to file an action against Simpson was granted. He was specifically directed to determine the appropriate court where personal jurisdiction and effective service of process over Simpson could be accomplished. Despite the court's direction, Kabbaj proceeded with the action in this court under C.A. No. 12-1322-RGA. The matter was subsequently dismissed for lack of personal jurisdiction, which was affirmed on appeal.<sup>11</sup>

Because his request failed to provide a proposed complaint to enable the court to evaluate his pleading, and provide notice of the claims to be asserted against the proposed defendants, Kabbaj's request (D.I. 65) is DENIED.

**B. Motion to Set Deadline/Motions to File A Complaint**

On February 11, 2014, Kabbaj filed a motion to set a deadline for Simpson and AST to respond to his previous motion.<sup>12</sup> Attached to this motion were additional publications allegedly posted by Simpson and Albro, claimed by Kabbaj to be Simpson's husband. Kabbaj contends his attempts to file an action in another

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<sup>9</sup> Kabbaj does not request provisions binding AST or Simpson be modified, including their obligation to seek permission to sue Kabbaj. Nor does he suggest by rescinding material conditions of the agreement for which he received a significant settlement amount, that he return any or all of the settlement funds.

<sup>10</sup> D.I. 55, Ex. 3. See also D.I. 54, 60 in C.A. 10-431-RGA.

<sup>11</sup> See *Kabbaj v. Simpson*, 547 Fed. Appx 84 (3d Cir. 2013); See also, *Kabbaj v. Simpson*, C.A. No. 12-1322-RGA/MPT, 2013 WL 2456108 (D. Del. June 6, 2013).

<sup>12</sup> D.I. 66.

jurisdiction is being thwarted by the proposed defendants' alleged refusal to respond. Plaintiff also requests a telephonic conference with all parties "to determine the best way . . . to transfer" the proceedings of C.A. No. 13-1522-RGA, and help him craft an amended complaint in that case before transferring the entire matter to another jurisdiction.<sup>13</sup> No proposed complaint was attached to the motion.

Subsequent to this motion, the Honorable Richard G. Andrews issued a memorandum opinion on April 7, 2014 in C.A. No. 13-1522-RGA addressing various motions, including Kabbaj's motion to add Albro, his motion to add AST as a defendant and his motion to file a second amended complaint to add both Albro and AST.<sup>14</sup> Those motions were denied.<sup>15</sup> Kabbaj has since filed an appeal to that decision. As a result, Kabbaj's justification for a teleconference to address his motion to amend and prepare an adequate complaint for transfer is moot.

Further, on March 7, 2014, AST responded to Kabbaj's motion, thus making his request for a deadline for AST to respond moot.<sup>16</sup> Since no proposed complaint was provided, neither the court nor the potential defendants have any means to evaluate Kabbaj's claims.

In light of the above findings, Kabbaj's motion to set a deadline (D.I. 66) is DENIED.

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<sup>13</sup> Kabbaj considers his request found at D.I. 65 in the instant matter as equivalent to his motion to add defendants or amend in C.A. No. 13-1522-RGA. The 13-1522-RGA matter is not and was not referred to me either by the parties' consent or pursuant to 28 U.S.C. § 636. Thus, I have no jurisdiction to address Kabbaj's request in that matter.

<sup>14</sup> See C.A. No. 13-1522 at D.I. 81, 92 and 96.

<sup>15</sup> *Kabbaj v. Google, Inc.*, 2014 WL 1369864, at \*6 (D. Del. Apr. 7, 2014).

<sup>16</sup> D.I. 68.

Kabbaj filed on March 21, 2014 another motion to file a complaint against proposed defendants AST, Simpson and Albro.<sup>17</sup> AST and Simpson were specifically named as releasees in the prior settlement in this matter. Kabbaj represented in his motion to set a deadline that Albro is Simpson's husband.<sup>18</sup> Under the terms of the settlement agreement and the April 24, 2012 order, releasees include family members of the named releasees, and Kabbaj is required to obtain permission from this court before instituting any new action against them. This mutual obligation is limited to the releasees in the settlement agreement and April 24, 2012 order in the instant matter. Google Inc., Amazon Inc., and Yahoo Inc. are identified in the body as ISP defendants, but not the caption of the proposed complaint. None of those entities are releasees under the settlement agreement and April 2014 order. John Does 1-9 are named as defendants in the caption, and noted in the body of the proposed complaint as "unidentified individuals, whereabouts unknown." They may or may not be releasees.<sup>19</sup> Since the court only retained jurisdiction for the purpose of enforcing the settlement agreement, consistent with the April 24, 2012 Order, the claims raised against those entities and individuals need not be addressed.

Attached to Kabbaj's motion to file a complaint is a proposed complaint.<sup>20</sup>

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<sup>17</sup> D.I. 70.

<sup>18</sup> He also represented that Albro is the possible husband of Simpson in another matter. *Kabbaj*, 2014 WL 139864, at \*6, n.4.

<sup>19</sup> At this stage, the court cannot determine whether any of the John Does could be or are releasees under the settlement agreement. However, the limited identification of the "John Does" as "whereabouts unknown," suggests this court may not have personal jurisdiction over them.

<sup>20</sup> D.I. 70, Ex. 1. Kabbaj's comments in his motion are directed to the conduct of Simpson, and not the other defendants identified in ¶¶ 3 through 7 of the proposed complaint.



Paragraphs 10 and 22 of the proposed complaint are the only paragraphs referencing any alleged conduct on the part of AST. Although paragraph 9 mentions AST, it does not attribute any purported activity on the part of AST.<sup>21</sup>

In determining whether Kabbaj's motion should be allowed, the court notes paragraph 9 of the proposed complaint asserts since February 2009, he and his family have allegedly been subject to a campaign of defamation and death threats, briefly referencing the other litigation previously noted herein. In Paragraph 10, he asserts in general conclusory language that the activity of all defendants involve the repeated filing of false criminal matters, defamatory statements on the web and books being sold on Amazon, email threats, stalking, vandalizing his property, spreading false allegations of his support of terrorism and "provocations" against his family in Morocco which resulted in incarceration of certain family members in that country. No where in this paragraph does Kabbaj provided any facts in support of his legal conclusions or conclusory accusations, identify who allegedly was involved in such conduct, nor address when these purported events occurred.<sup>22</sup>

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<sup>21</sup> In ¶¶ 9 and 10 of the proposed complaint, Kabbaj references prior litigation in which the "details of the conflict is [sic] covered in previous civil/criminal litigation in Morocco" and the United States, noting three matters filed in this court (C.A. Nos. 10-431-RGA, 12-1322-RGA and 13-1522-RGA), and the action in the United States District Court for the Southern District of Florida (C.A. No. 11-23492). Since the filing of the motion, Kabbaj filed three additional matters in this court without first obtaining permission as required. See C.A. Nos. 14-780-RGA, 14-982-RGA and 14-1001-RGA. Most recently, on December 15, 2014, a matter was transferred from the United States District Court of the Southern District of Florida, *Kabbaj v. John Does 1-58*, 14-1484-RGA for failing to abide by the consent order of April 24, 2012.

<sup>22</sup> According to ¶ 10 of the Confidential Settlement Agreement, General Release and Covenant not to Sue, portions of which are attached to a number of other filings by Kabbaj, specifically C.A. No. 10-431 RGA at D.I. 69, Ex. 1, in consideration for the settlement payment, he agreed not to sue AST and the other releasees "for anything



Paragraphs 11 through 14 primarily criticize Simpson's activity in the second action filed in this court, C.A. No. 12-1322-RGA, specifically his use of FED. R. CIV. P. 12 (b)(2) to have the matter dismissed on jurisdictional grounds and his failure to deny authorship of the web postings. These paragraphs also provide a history according to Kabbaj and his view of the court's decisions quashing his attempts to subpoena third parties before a scheduling order was entered and while Simpson's motion to dismiss was outstanding in that matter.<sup>23</sup> In ¶ 14, Kabbaj represents that the individual who authored defamatory communications forwarded to AST was Albro. Kabbaj also claims in ¶¶ 15 through 18, that from April 2013 and thereafter, Simpson and Albro through emails and other conduct threatened Kabbaj and his mother, filed a false complaint against him for harassment, which lead to his "false" arrest and continued their malicious prosecution of him in a New York court. Kabbaj claims he has confirmation that the author of the threatening emails is Albro. Paragraphs 19 through 21 contend Simpson and Albro stalked him for his religious beliefs, taken measures to hide their trail of electronic communications, and continued to pursue a hate crime matter against him in New York. Paragraph 22 merely asserts AST, Simpson and Albro breached the settlement agreement because AST and Simpson were direct parties to that agreement and Simpson's employment contract with AST executed in 2009, like the settlement agreement of 2012, prohibited engaging in defamation and filing false criminal

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arising up until the date of this Agreement," which was executed on March 12, 2012. Therefore, conduct occurring before that date has been released.

<sup>23</sup> Admitted in ¶ 12 of the propose complaint, Kabbaj's appeal to the Third Circuit was unsuccessful and dismissal of C.A. No. 12-1322-RGA was affirmed. See *Kabbaj v. Simpson*, 547 Fed. Appx 84 (3d Cir. 2013).

complaints against Kabbaj.

Paragraphs 23 through 28 only mention his causes of action, that is, declaratory and injunctive relief, breach of contract, tortious interference with contract, negligent and intentional infliction of emotional distress and libel per se and seeks certain remedies. No additional facts are alleged.

Regarding Kabbaj's allegations against AST, beyond perfunctory statements in paragraph 10, he alleges no facts to support his claims against this proposed defendant. Rather any "facts" that may arguably support his purported causes of action are directed to Simpson and Albro. A general reference to three dismissed actions in this court and matters in another jurisdiction and country allegedly documenting the "details of the conflict" is insufficient. Kabbaj is required to supply the factual bases for his present proposed complaint within that pleading which provides the necessary notice for his present claims. Federal Rule of Civil Procedure 8 "demands more than an unadorned, the defendant-unlawfully-harmed-me accusation."<sup>24</sup> His comments regarding AST are merely "bald assertions" and purported "legal conclusions."<sup>25</sup>

As previously discussed, Kabbaj lumps the proposed defendants together in

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<sup>24</sup> *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009), citing *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544, 555 (2007).

<sup>25</sup> *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3d Cir. 1997) (citations omitted); see also *Schuylkill Energy Res., Inc. v. Pa. Power & Light Co.*, 113 F.3d 405, 417 (3d Cir. 1997) (citations omitted) (rejecting "unsupported conclusions and unwarranted inferences"); see generally *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983) ("It is not . . . proper to assume [plaintiff] can prove facts that it has not alleged or that the defendants have violated the . . . laws in ways that have not been alleged.").

contradiction to his more detailed allegations against Simpson and Albro.<sup>26</sup> Substantial parts of the proposed complaint criticize the court's decisions in C.A. Nos. 12-1322-RGA and 13-1255-RGA.

Some information is contained in the allegations against Simpson and Albro. This decision does not address whether Kabbaj's proposed complaint against them is sufficient to survive motions to dismiss or other similar filings under state or federal rules of civil procedure. Nor is it directed to the sufficiency of the allegations against John Does 1-9, Google, Amazon or Yahoo.

In his motion found at D.I. 70, Kabbaj also seeks immediate mediation in this jurisdiction "to confirm to the Court that the proper jurisdiction to sue Mark Simpson is Delaware, despite the fact that the 3<sup>rd</sup> Circuit has affirmed Simpson's claim of lack of jurisdiction in Delaware . . . ." <sup>27</sup> He seeks such relief to avoid "filing different cases against different parties in different states" regarding conduct that he asserts should be resolved in Delaware according to the settlement agreement.<sup>28</sup> His request conflates

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<sup>26</sup> For example, D.I. 70, Ex 1 at ¶ 15 ("This threatening email was again falsely purporting to come from staff and students at AST, but Plaintiff suspected that the only persons who would send it were Simpson/Albro and their John Doe co-conspirators."); *Id.* at ¶ 16 ("After that event, Simpson/Albro obtained assistance of unidentified John Doe co-conspirators in Florida who whereby placed tomato sauce on the roof of Plaintiff's mother's car in another veiled threat to infect Plaintiff's mother with HIV . . . ." "Simpson/Albro thereby used Plaintiff's response to file a false complaint against him with the New York city Police Department alleging harassment, but they did not inform the police about their previous stalking, threatening and harassment of Plaintiff which occurred unabated for years since 2009 . . . ."; *Id.* at ¶ 18 "After serving the new Delaware subpoenas, plaintiff discovered that the individuals making these threats were using proxy companies to hide their identity. Despite the attempts to hide their identity, Plaintiff was still able to obtain confirmation that again . . . that the author of these death threats is an individual named Brian Albro . . . .")

<sup>27</sup> D.I. 70 at ¶ 3.

<sup>28</sup> *Id.* at ¶ 4.

two different matters, C.A. Nos. 10-431-RGA and 12-1322-RGA, involving different issues. Kabbaj admits this court granted Simpson's motion to dismiss for lack of personal jurisdiction in C.A. No. 12-1322-RGA, which was upheld on appeal, while C.A. No. 10-431-RGA provides limited jurisdiction for enforcement of the settlement agreement and the April 24, 2012 Order.<sup>29</sup> As affirmed by the Third Circuit, this court has no general or specific personal jurisdiction over Simpson.<sup>30</sup> Similarly, his proposed complaint suggests it has no personal jurisdiction over Albro.<sup>31</sup> As a result, exercise of personal jurisdiction over them would not comport with Delaware's Long Arm Statute under 10 DEL. C. § 3104, federal case law or due process.<sup>32</sup>

Finally, Kabbaj filed an "emergency motion for a teleconference to establish facts necessary to file an appeal in related case," which rehashes his comments filed in the other motions under consideration, as well as his numerous filings in other matters.<sup>33</sup> He again conflates C.A. No. 10-431-RGA with C.A. No. 13-1522-RGA. He assumes certain obligations on the court, including to explain its decisions, to initiate a teleconference merely because a party makes such a request and other demands. He claims to be confused by the court's decisions, and wants it to advise how to proceed, including drafting a complaint. He clearly disagrees with this court and the Third

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<sup>29</sup> Paragraph 2 b of the settlement agreement recognizes mutual obligations on the part of Kabbaj and defendants in C.A. No. 10-431-RGA to obtain permission to sue.

<sup>30</sup> See *Kabbaj v. Simpson*, 547 Fed. Appx 84 (3d Cir. 2013).

<sup>31</sup> D.I. 70, Ex. 1 at ¶ 6 where plaintiff alleges Albro is "an attorney and resident of New York and Ireland."

<sup>32</sup> See *Provident Nat'l Bank v. Cal. Fed. Sav. & Loan Ass'n*, 819 F.2d 434, 437 (3d Cir. 1987) (a "federal district court may assert personal jurisdiction over a nonresident of the state in which the court sits to the extent authorized by the law of that state."). See also, *Kabbaj*, 547 Fed. Appx at 86, n.6.

<sup>33</sup> C.A. No. 10-431-RGA, D.I. 71.

Circuit's opinion denying jurisdictional discovery.<sup>34</sup>

The court has not found that Kabbaj could not sue Simpson if he abides by the consent order of April 24, 2012 and brings his action in the proper jurisdiction. Rather, the court initially allowed him to sue Simpson, but cautioned that he do so in the appropriate jurisdiction where personal jurisdiction and effective service of process existed.<sup>35</sup> No decision by the court modified the releasees in the settlement agreement and consent order; rather Kabbaj advised numerous times that Albro is Simpson's partner and/or husband.<sup>36</sup> In fact, for example, in D.I. 70, he moved for permission to file an action against Simpson and Albro, but not against Google, Amazon or Yahoo demonstrating he understands the court's decisions and orders. Despite his concerns referenced in the motion, he filed an appeal in C.A. No. 13-1522-RGA on May 6, 2014.

Therefore, in light of the findings herein, including on the related motions, Kabbaj's emergency motion (D.I. 71) is DENIED.

In analyzing his motions, the court is cognizant of the more liberal approach granted pro se litigants like Kabbaj; however, pro se parties are required to follow rules of procedure and substantive law.<sup>37</sup> The court is further aware that the present motions

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<sup>34</sup> The appellate court found Kabbaj failed to make out a prima facie case justifying jurisdictional discovery. *Kabbaj*, 547 Fed. Appx at 86, n.5.

<sup>35</sup> C.A. No. 10-431-RGA at D.I. 60.

<sup>36</sup> In his proposed complaint, Albro is "purported to be Mark Simpson's boyfriend/husband." D.I. 70, Ex. 1 at ¶ 14. See *Kabbaj*, 2014 WL 1369864, at \*6 (D. Del. Apr. 7, 2014).

<sup>37</sup> *McNeil v. United States*, 508 U.S. 106, 113 (1993) ("We have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse the mistakes of those who proceed without counsel."); *Farretta v. California*, 422 U.S. 806, 834 n. 46 (1975) (finding pro se status is not a license to disregard procedural rules or substantive law). This circuit has repeatedly adhered to Supreme Court precedent in that regard. See *Ayres v. Jacobs & Crumplar, P.A.*, 99 F.3d 565, 567, 570 (3d Cir.

are four of many Kabbaj has filed, and he has initiated previous cases in this jurisdiction, New York and Florida. He is neither a novice nor unfamiliar with the federal court system.

### **III. CONCLUSION**

For the above reasons, the court denies Kabbaj's motions found at D.I. 65, 66 and 71, and denies in part and grants in part his motion at D.I. 70. An appropriate detailed order will be entered.

January 5, 2014

/s/ Mary Pat Thyng  
CHIEF, UNITED STATES MAGISTRATE JUDGE

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1996); *Lewis v. Williams*, C.A. No. 05-013-GMS, 2010 WL 2640188, at \*3 (D. Del. June 30, 2010) (proceeding as a pro se litigant does not give a party the right to "flagrantly disregard the Federal Rules of Civil Procedure in an effort to manipulate rulings in his favor"); *Thompson v. Target Stores*, 501 F. Supp. 2d 601, 604 (D. Del. 2007).

# Exhibit 02



**UNITED STATES DISTRICT COURT**

Younes Kabbaj,  
Plaintiff

v.

American School of Tangier,  
(a Delaware Corporations),  
Brian Albro, Mark Simpson, John Does 1-9,  
Defendants

**CIVIL ACTION No.**

**COMPLAINT AND JURY DEMAND**

1. Plaintiff seeks declaratory and injunctive relief, and money damages for defamation, tortious interference with contract, negligent and intentional infliction of emotional distress, premised upon diversity of citizenship.

**The Parties**

2. Younes Kabbaj is natural born US citizen, temporarily located in Florida.
3. American School of Tangier ("AST") is a Delaware Corporation
4. Google Inc., Amazon Inc., Yahoo Inc. ("ISP Defendants") are Delaware Corporations.
5. Mark Simpson is a former employee of AST and resident of New York and France.
6. Brian Albro is an attorney and resident of New York and Ireland.
7. John Does 1-9 are unidentified individuals, whereabouts unknown.

**Jurisdiction and Venue**

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1332 because the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, and there is diversity of citizenship between Plaintiff and the Defendants. This Court also has supplemental jurisdiction over the claim for relief that arises under State law

pursuant to 28 U.S.C. 1367(a) because it forms part of the same controversy and derives from a common nucleus of operative facts. Venue is proper in this District pursuant to 28 U.S.C. 1391(b)(3) because the Defendants are subject to personal jurisdiction in the District.

### **The Facts**

9. Starting approximately February of 2009, Plaintiff and his family have been subjected to a prolonged campaign of defamation; stalking and death threats after Plaintiff accepted a job as the Head of Technology for the American School of Tangier and Marrakesh ("AST"). The details of the conflict is covered in previous civil/criminal litigation in Morocco and America, including Case no. 10-431-RGA, Case no. 12-1322-RGA, Case no 13-1522-RGA (Delaware District Court), and Case no. 11-23492-MGC (Southern District of Florida).

10. The criminal activity engaged against Plaintiff by the Defendants is substantial and prolonged, much of it already documented in the 10-431-RGA, 12-1322-RGA and 13-1522-RGA case. This activity includes the repeated filing of false criminal complaints against Plaintiff, voluminous defamatory statements appearing on the web and in books being sold on Amazon, email threats sent directly to Plaintiff by Defendants, physical stalking of Plaintiff and his family by the Defendants including vandalizing his property, and incitement against Plaintiff by spreading false allegations accuse him of supporting of terrorism, and provocations against Plaintiff's family in Morocco resulting in false incarceration of his family members in Morocco. There are also direct statements by the Defendants admitting that they are targeting Plaintiff specifically because of his religion.

11. The websites and communications being published on the internet, all purported to be authored and published by a previous Defendant from the 12-1322-RGA case, a person

named Mark Simpson. Upon filing of the 12-1322 case against Mark Simpson, subsequent communications and publications being made to the internet started claiming that the communications which Plaintiff submitted to the Court in the 12-1322 case were forgeries, and that Mark Simpson never made them because unidentified third parties had illegally intruded into his internet accounts, or 'hacked' them, to make the postings. At the same time that these allegations of hacking were being made on the internet, Mark Simpson's attorney responded to the 12-1322 case and never attempted to claim that the submissions made by Plaintiff were 'forgeries.' Instead he responded to the 12-1322 complaint by attempting to dismiss the case solely on jurisdictional grounds. This strategy was deliberate because Mark Simpson's attorney already knew that Mark Simpson was not making the postings, but that his family/friends were doing it to confound Plaintiff from being able to restrain them via litigation.

12. Mark Simpson also never denied making the postings submitted by Plaintiff in the 12-1322 case because he knew that if he officially informed the Court that he denied being the author of the publications, this would immediately allow Plaintiff to engage discovery with the ISPs directly so as to identify the actual authors of the publications in order to file suit against them. In light of this obvious attempt to use an illegal strategy to defeat Plaintiff's lawsuit, Plaintiff subsequently filed a motion to amend the 12-1322 case to add John Does in order to signify that he intended to sue the actual authors of the Defamation, and Plaintiff subsequently served subpoenas on Google/Amazon to obtain the technical data which would identify the actual authors. The Delaware Court rejected Plaintiff's Motion to add John Does citing a procedural defect, and Plaintiff resubmitted it yet the Court denied the Motion without explanation. The Court also quashed Plaintiff's subpoenas and banned Plaintiff from serving any

further subpoenas to identify the actual authors of the communications. Plaintiff appealed these decisions to the 3<sup>rd</sup> Circuit, but they never addressed them and affirmed the final dismissal of the case without ever once addressing these specific facts.

13. As a result of these decisions, Plaintiff was thereby forced to file an additional case in Delaware against the John Does and the ISPs as Case no 13-1522-RGA to continue to try and restrain this activity. Since Plaintiff could never confirm that these communications were being made by anyone other than the ISPs due to Mark Simpson's refusal to admit he made them, and due to the Court's dismissal of the claims without allowing Plaintiff to serve subpoenas to attempt to identify the authors in the event that the publications were not made by the ISPs directly, the Plaintiff interpreted the Court's decisions to infer that the appropriate method by which to pursue a defamation case is to first sue the ISPs directly to obtain the evidence confirming that third parties are making the publications, before the ISP's can then decide if they wish to invoke immunity against suit by providing the evidence identifying the third parties. Nothing precludes suit against the ISPs because they are the only admitted source of the publications thus far.

14. Before filing of the instant case, Plaintiff also served additional subpoenas upon the ISPs to attempt to identify the actual authors of these communications in an effort to establish whether the communications were made by a third party. As a result of at least one subpoena to Verizon attempting to identify the author of defamatory communications sent directly to AST (which was purported to have been authored by Mark Simpson), Plaintiff was subsequently able to finally determine that the actual identity of that communication is a person named Brian Albro, who is purported to be Mark Simpson's boyfriend/husband. The communication,

subpoena and response from Verizon is file in case no 13-1522-RGA (District of Delaware), Document 75.

15. At some point while the 12-1322 case was proceeding in Delaware, Mark Simpson, Brian Albro and other unidentified individuals named as John Does in this Complaint, thereby conspired to also manufacture a false arrest of the Plaintiff in an effort to prevail against him in this litigation. Approximately April of 2013, Simpson/Albro discovered where Plaintiff's mother lived and worked in Florida, and thereby used this information to threaten Plaintiff and his mother. After discovering that Plaintiff's mother had just recently obtained a job at a strip mall, Brian Albro thereby sent Plaintiff a death threat against his mother to Plaintiff's court-registered email address in an effort to force Plaintiff to abandon the litigation (case no 13-1522-RGA, District of Delaware, Document 95 - Exhibit 3). This threatening email was again falsely purporting to come from staff and students at AST, but Plaintiff suspected that the only persons who would send it were Simpson/Albro and their John Doe co-conspirators.

16. Upon receipt of this email, Plaintiff's mother resigned her job at the strip mall to avoid any disturbance at her job. After that event, Simpson/Albro obtained the assistance of unidentified John Doe co-conspirators in Florida who thereby placed tomato sauce on the roof of Plaintiff's mother's car in another veiled threat to infect Plaintiff's mother with HIV (case no 13-1522-RGA, District of Delaware, Document 95 - Exhibit 4). Subsequent to this activity, Plaintiff responded to Simpson/Albro directly in order to deter their continued harassment and threats of Plaintiff's family. Simpson/Albro thereby used Plaintiff's response to file a false complaint against him with the New York City Police Department alleging harassment, but they did not inform the police about their previous stalking, threatening and harassment of Plaintiff which

occurred unabated for years since 2009 and all they way up to just days before Plaintiff responded to them directly. After being contacted by a Detective in the NYPD (Detective Egan) who was investigating Simpson/Albro's claims, Plaintiff informed Detective Egan that Simpson/Albro were the ones that were threatening Plaintiff to elicit his response. Detective Egan stated that if Plaintiff could provide him with evidence of threats being made by Simpson/Albro, that he would arrest them. Plaintiff thereby planned to meet with Detective Egan upon his next trip to New York, which would not occur until after the case in Delaware was dismissed.

17. Subsequent to the dismissal of the 12-1322 case, Plaintiff understood that the Delaware Court was not going to allow Plaintiff to restrain the persons stalking him, so he thereby took Detective Egan up on his offer to investigate the case, not knowing that Detective Egan was plotting a criminal action against Plaintiff to support Simpson/Albro and their political constituency. Plaintiff thereby travelled to New York to provide Simpson/Albro with evidence of the threats he was receiving to arrest the persons responsible, but Detective Egan ambushed Plaintiff with a false arrest, refusing to investigate the threats Plaintiff was receiving.

18. Plaintiff thereby started serving more subpoenas through the instant case in Delaware to attempt to trace the origin of the April death threats himself. After serving the new Delaware subpoenas, Plaintiff discovered that the individuals making these threats were using proxy companies to hide their identity. Despite the attempts to hide their identity, Plaintiff was still able to obtain confirmation that again, just like in the Verizon response, that the author of these death threats is an individual named Brian Albro (case no 13-1522-RGA, District of Delaware, Document 95- Exhibit 5).

19. Even despite the false arrest and ongoing malicious prosecution in New York, which is being illegally charged as a felony 'hate crime' due to a very political Manhattan DA office that refuses to acknowledge the provocations by Simpson/Albro (which are themselves criminal offenses and admitted to be hate crimes against the Plaintiff because Simpson/Albro openly admit that they are stalking Plaintiff because of his religious beliefs), the defamation still has not stopped. Because the Plaintiff sued Google/Amazon/Yahoo for their previous defense of their conspiracy due to their refusal to provide information in their possession to identify the authors, this thereby caused Simpson/Albro and the John Does to move their operation to another ISP named Wordpress to host their blogs (while still maintaining their Yahoo email services), where the defamatory communications are still continuing till this day and will never stop, as is documented in case no 13-1522-RGA, District of Delaware, Document 90-2.

20. Despite submitting all these publications to the Court, and despite the fact that Simpson is forwarded the pleadings by his attorney and has had ample opportunity to dispute that he published them, Simpson/Albro refuse to make any such claim directly to this Court because they are fully aware they are authoring this material themselves, and that Simpson is likely authoring the material and forwarding it to Brian Albro (a New York attorney with a technology background) to perform the actual publication of the material using proxies to hide the trail of the communications, just as the technical evidence has now revealed. This procedure is clearly done in an effort to try and maintain Simpson's technical ability to later claim (should a discovery order be issued), that he never physically made the publications himself with the hopes that by the time he is forced to make these admissions under oath, the technical evidence



confirming that Brian Albro and other John Doe co-conspirators is purged by the ISPs making it impossible for Plaintiff to dispute him by tracing the communications via subpoena to ISP.

21. This operation by Simpson/Albro and the John Does is sophisticated both in the use of advanced technical means such as using proxy companies with servers all across the world to hide the trail of the communications, and the political defenses they are attempting by injecting homosexuality as a 'defense' to the allegations, and the additional attempt to use a false criminal complaint in New York to further inundate Plaintiff with additional litigation to thwart him and essentially gain the ability to illegally punish him for having a religious beliefs that run contrary to his own.

22. AST, Mark Simpson, Brian Albro and the John Does have breach the settlement contract with Plaintiff which specifically prohibited all releases, including Brian Albro who is defined as a family member of Mark Simpson and thus a release, from engaging defamation, and filing false criminal complaints against Plaintiff. AST and Mark Simpson were direct parties to the settlement agreement and were involved in the negotiations leading up to its being signed by Plaintiff, as admitted in the REPLY to Plaintiff's request for permission to file a lawsuit against AST in the related case (Case no 10-431-RGA, District of Delaware, Document 68). Mark Simpson is also a signatory to his own Contract with AST in 2009 prohibiting these activities against Plaintiff, which Plaintiff himself relied upon to sign his settlement agreement with AST.

#### **AS AND FOR A FIRST CLAIM**

##### **Declaratory and Injunctive Relief**

23. Plaintiff is requesting that the Court declare the communications being made by the Defendants, are defamatory in that they falsely accusing Plaintiff of committing serious crimes.

24. Plaintiff is requesting an injunction against all Defendants from publishing any such defamatory communications about Plaintiff ever again.

**AS AND FOR A SECOND CLAIM**

**Breach of Contract**

25. Plaintiff is requesting that the Court declare that AST, Mark Simpson, Brian Albro and the John Doe defendants have breached their Contract with Plaintiff in the 10-431-RGA case which was signed in 2012, a redacted copy of which has been provided to the Court in the 10-431-RGA Case as D.I. 69, Exhibit 1). A redacted version was filed due to the fact that the Contract is still confidential until the Plaintiff is allowed to revise it via the permission requested in the MOTION TO FILE LAWSUIT, case no 10-431-RGA, D.I. 65. Plaintiff is requesting damages for breach to be determined by jury.

**AS AND FOR A THIRD CLAIM**

**Tortious Interference with Contract**

26. Plaintiff is also requesting that the Court declare that all John Doe defendants who are not party to the 2012 contract, are also declared as engaging tortious interference with this contract by publishing the communications which are the subject of this complaint in an effort to force Plaintiff into breaching the contract. Plaintiff is requesting damages for this interference to be determined by a jury.

**AS AND FOR A FORTH CLAIM**

**Negligent and Intentional Infliction of Emotional Distress**

27. Plaintiff is also requesting that the Court declare that the Defendants are engaging negligent and intentional infliction of emotional distress against Plaintiff by publishing the

communications which are the subject of this complaint. Plaintiff is requesting damages for this claim to be determined by a jury.

**AS AND FOR A FIFTH CLAIM**

**Damages for Libel per se**

28. Plaintiff is requesting this Court impose damages against AST, Mark Simpson, Brian Albro and the John Does for publishing the defamation which is the subject of this complaint. Plaintiff is requesting damages for this claim to be determined by a jury.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiff respectfully demands this court enter judgment in its favor and against the Defendants as follows:

29. Awarding on the Second, Third, Fourth and Fifth claim for such compensatory and punitive damages in an amount to be determined by a jury.

30. Granting such other and further relief as the Court deems just and proper, including the costs of this action and investigative costs associated with gathering evidence in this case, and damages incurred as a result of the filing of the Criminal Case against Plaintiff in New York, and other costs associated with defending against the false criminal case in New York.

31. Ordering AST to comply with all proceedings in the New York criminal case, including making available communications, documents, witnesses and evidence as requested.

Respectfully submitted this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2014

/s/ Younes Kabbaj  
Younes Kabbaj PRO SE  
1844 N Nob Hill Rd #222  
Plantation, FL 33322

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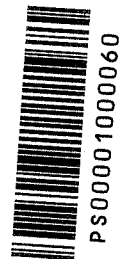
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## General Information

<b>Court</b>	United States District Court for the Southern District of New York; United States District Court for the Southern District of New York
<b>Federal Nature of Suit</b>	Civil Rights - Other[440]
<b>Docket Number</b>	1:15-cv-00886